Holly Anderson
Clerk of the Commission, Vermont Public Utility Commission
112 State Street, 4th Floor
Montpelier, VT 05620

RE**:** *In The Matter of The Public Utility Commission 2024 Investigation into Rates Related to Electric Vehicles* **–** Case No. 24-3023-INV

Dear Clerk Anderson and members of the Vermont Public Utility Commission,

On behalf of Charge Ahead Partnership, I am writing to you today to provide our comments in response to the Vermont Public Utility Commission's invitation for comments regarding utility rates related to electric vehicle supply equipment ("EVSE") and utility upgrade practices related to the installation of EVSE.

Please find our comments below and do not hesitate to reach out if we can be of further help to the commission.

Sincerely,

/s/ Jay Smith
Jay Smith
Executive Director
Charge Ahead Partnership
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STATE OF VERMONT

BEFORE THE PUBLIC UTILITY COMMISSION

IN THE MATTER OF THE PUBLIC UTILITY COMMISSION 2024 INVESTIGATION INTO RATES RELATED TO ELECTRIC VEHICLES	Case No. 24- 3023-INV

COMMENTS OF CHARGE AHEAD PARTNERSHIP

I. Introduction

In 2021, The Vermont General Assembly passed Act 55, "An act relating to the Transportation Program and miscellaneous changes to laws related to transportation." This Act directed the Vermont Public Utility Commission ("the Commission") to file an annual report with the Legislature regarding the progress of Vermont's distribution utilities implementation of rates related to electric vehicles ("EVs") and electric vehicle supply equipment ("EVSE").[1] In 2024 this requirement was amended by the passage of H.868 which adds reporting requirements for utility service-upgrade practices related to EVSE installation.[2] With the Commission collecting information and comments for the final report to the General Assembly pursuant to Act 55, Charge Ahead Partnership (CAP) submits the following comments for Commission consideration when crafting the report to the legislature and shaping EV charging and EVSE policy going forward.

II. About Charge Ahead Partnership

Charge Ahead Partnership's (CAP) membership is comprised of businesses, organizations and individuals that share the common goal of expanding Vermont's EV charging network and ensuring Vermont is positioned to meet EV drivers' expectations of quality service, safety and the affordable, competitive pricing to which they have grown accustomed with the established

[1] Public Act No. 55 (2021 Vt., Bien. Sess.) ("Act 55").
[2] H.868 became law on June 3, 2024. See Public Act No. 148 (2024 Vt., Adj. Sess.)("Act 148")

refueling network. Our corporate members, from big box retailers to grocery stores and restaurants, to existing fuel retailers, own the real estate that is best suited for direct-current fast charging ("DCFC") infrastructure. Many of these businesses are located along highway corridors and offer the amenities that drivers will demand while refueling.

The biggest challenge to widespread EV adoption in Vermont is the lack of a robust, statewide DCFC network that is co-located with the services and amenities, such as food vendors, restrooms, lighting and security, that consumers have come to expect when they refuel. CAP believes that a competitive, market-based approach is the most efficient and economical way to build Vermont's EV charging network so that it promotes fair competition and encourages private investment in the EV charging business.

Included below is an overview of CAP's response to the Commission's invitation for comments on utility EV charging rates and service upgrade practices. Additionally, we have included some general comments on the appropriate role of electric utilities in an exceedingly competitive EV charging market. We encourage you to consider these comments as you prepare the report to the legislature as well as regulatory policy that will best position Vermont to create a competitive and consumer-centric DCFC network across the state going forward.

III. Comments of Charge Ahead Partnership

A. Rate Design for Direct Current Fast Charging Stations

Across the country the lack of a rate or set of rates that are specifically developed for DCFC stations is a key structural challenge discouraging the private market from investing in EV charging as public DCFC stations are typically subjected to costly demand charges. These demand charges can create an insurmountable obstacle to private entities offering DCFC services due to their cost, lack of predictability and billing process. The need to address rate structure for EV charging was also acknowledged by the federal government through the amendments made to the Public Utilities Regulatory Policies Act of 1978 ("PURPA") by the Infrastructure Investment and Jobs Act ("IIJA"), which was signed into law in 2021. In particular, Section 40431[3] of the IIJA directed state utility regulatory agencies across the country to consider measures that "promote greater

[3] Key provisions of Section 40431 of the IIJA amended PURPA and are codified in 16 U.S.C. 2621 (d)(21). *See e.g.*, https://www.congress.gov/117/plaws/publ58/PLAW-117publ58.pdf and also https://www.law.cornell.edu/uscode/text/16/2621

electrification of the transportation sector," including rates that would "accelerate third-party investment in electric vehicle charging for light-, medium-, and heavy-duty vehicles."

CAP is encouraged by the progress that many of Vermont's utilities have made in this area with utilities such as GMP and VEC offering rates for commercial EVSE that do not include demand charges.[4] While some of the state's utilities have introduced EV specific rates free of demand charges there is more work to be done, specifically by smaller or rural electric providers who have not yet introduced these new rates. Our organization recognizes the technological and administrative barriers facing rural utilities in implementing demand charge solutions, but we encourage the Commission to ensure that these utilities continue to work towards the implementation of alternative, EV specific rates so that all parts of the state can have access to rates that will facilitate investment in EVSE infrastructure.

Furthermore, to ensure a level playing field, private businesses also need certainty that all owners and operators of publicly accessible DCFC stations will operate with the same competitive risks and access to electric rates on a level playing field. There are documented instances across the country where regulated utilities have owned and operated DCFC stations without subjecting their own chargers to demand charges. A study conducted between 2012 and 2022 found that of the 27 rates offered by investor-owned utilities at utility-owned charging stations "Not a single offered rate for utility-owned infrastructure included a demand charge."[5] With multiple of Vermont's electric utilities participating in the EV charging market with utility-owned public charging stations the Commission and General Assembly must ensure that utilities do not take advantage of their sanctioned monopoly power and provide EV charging services at rates that would undercut third party owned competition. For example, as of last year's annual report, Stowe Electric offered a public charging rate of $0.2076 per kWh with a $2.00 per session initiation fee for their public DCFC stations, while not offering a commercial charging rate.[6] This is problematic as these rate conditions would discourage potential private investors from building charging stations in Stowe Electric's service territory, potentially leaving a monopoly utility as the sole

[4] Act 55: 2024 Report on Electric Rates for Electric Vehicle, Vermont Public Utility Commission, January 15, 2024.
[5] Snapshot of EV-Specific Rate Designs Among U.S. Investor-Owned Electric Utilities, Peter Cappers, Andrew Satchwell, Cameron Brooks, & Sam Kozel, Lawrence Berkeley National Laboratory Electricity Markets & Policy Energy Analysis & Environmental Impacts Division, April 2023. https://eta-publications.lbl.gov/publications/electric-vehicle-program-designs-and
[6] Act 55: 2024 Report on Electric Rates for Electric Vehicle, Vermont Public Utility Commission, January 15, 2024.

public charging provider, to the detriment of EV drivers. As the Commission prepares the report, it should consider the detrimental impact of electric utilities undercutting the competitive market on the price to recharge.

B. The Necessity for a Level Playing Field in the Nascent EV Charging Marketplace

Consumers refuel at approximately 125,000 retail fueling locations across the country. The retail fuels market today is the most transparent and competitive commodity market in the United States. Consumers can easily see fuel prices and decide where to refuel based on the posted price without having to leave their vehicles. This dynamic leads to price competition and consumer choice. EV drivers should have access to the same competitive, stable and convenient prices and options that drivers of internal combustion engine vehicles have enjoyed for decades. This requires an EV charging market driven by competition and innovation, one that cannot be achieved if private investment is discouraged from entering the market.

The ownership and operation of EV charging stations by Vermont's electric utilities illustrates a major barrier to private investment in DCFC stations, which is the threat of electric utilities leveraging their regulated status to generate an artificial competitive advantage over other businesses. This acts as a disincentive for private investment as private entities cannot rationally invest their own capital if there is risk of that investment being undercut by utility investment.

Throughout the country regulatory officials have been grappling with this issue of regulated electric utility participation in the electric vehicle charging market. Some states that have previously allowed utility ownership of public EV charging stations have taken positive steps to move away from that model and implement regulatory policy that gives private businesses more certainty that unfair competition will not be tolerated. Just recently, the Colorado Public Utilities Commission ("CPUC") rejected a component of Xcel Energy's Transportation Electrification Plan ("TEP"), which had included a proposal to own and operate hundreds of DCFC stations in Colorado.[7] The CPUC's final decision included notable language in support of the competitive marketplace and several policy departures from Xcel's last TEP decision which approved a pilot

[7] Weiser, Scott, "Colorado energy regulators reject Xcel's plans to build hundreds of EV charging stations", Denver Gazette, April 22, 2024, https://denvergazette.com/news/business/colorado-puc-rejects-xcels-plan-to-build-460-ev-chargers/article_a0332928-004e-11ef-a84f-d7a36ca15336.html

program for utility-owned DCFC stations. This most recent decision indicates a general finding by the CPUC that the private market is and should be driving EV charging station investments.[8]

In a similar departure from utility ownership, the California Public Utilities Commission ("California PUC") created a new program in 2022 intended to encourage private investment in EV charging stations while limiting the ability of public utilities to seize monopolistic control of the marketplace. Instead of allowing electric utilities to spend ratepayer funds on utility-owned and operated EV charging stations, the California PUC implemented a rebate program that aims to offset the up-front cost for third-party operators to buy and install chargers. It explicitly forbids electric utilities from using rebate funds from this program to subsidize their own investment in EV chargers. See below statements from former California PUC Commissioner Cliff Rechtschaffen during the commission's Nov. 17 meeting.

> *"The utilities will not be permitted to own any of this infrastructure, and the rationale for that is that will mean lower cost for ratepayers because the charger and other equipment will not be in the utility rate base…We think the program moves in the direction of rightsizing the role of the utility in EV infrastructure, and to allow the utilities to focus more on the areas within their core competency.…Also while there has been an argument for utility ownership in a nascent market, where customers need more handholding, given the advancing state of the market by mid-decade, utility ownership should really not be necessary, even to reach difficult to access measurements."*[9]

Another state to recently move away from utility ownership of charging stations was Maryland where utilities had been approved to build out public charging networks, building hundreds of public chargers. These chargers have not been heavily utilized with the majority

[8] Colorado Public Service Commission, Decision No. C24-0223, Proceeding No. 23A-0242E, "We acknowledge the potential competitive concerns that…Public Service [Xcel] could theoretically become a competitor at some point in the future. However, we note that (1) the Company is at best only operating a few public charging stations as of the time of answer testimony in this Proceeding, and (2) while it reserves the right (in Settlement paragraph 23) to propose such ownership in the future, the market factors that led the Company to withdraw its initial proposal to own public chargers in this Proceeding are only going to intensify in the future, making it increasingly unlikely that the Commission will approve Company ownership, except perhaps in areas that the unregulated market remains uninterested in serving."

[9] California Public Utilities Commission - Voting Meeting, November 17, 2022, 44:08, https://www.adminmonitor.com/ca/cpuc/voting_meeting/20221117/

operating at a loss to ratepayers and being plagued by reliability issues.[10] The Maryland Public Service Commission recently directed the utilities to cease the development of new utility-owned charging stations while initiating a process to determine if there are limited circumstances when it may be appropriate for utilities to own public charging stations.[11]

As the Commission prepares the report and shapes regulatory policy, the negative examples of other states that have previously approved utility-owned charging stations and the consequences of monopoly dominance in the EV charging market should be considered.

C. Right-Sizing the Role of Electric Utilities in the EV Charging Market

The most effective way to build out Vermont's charging network is through a coordinated partnership between Vermont's electric utilities and private, unregulated businesses. Instead of seeking to directly participate in the competitive EV charging market, electric utilities should look to facilitate partnerships through a make-ready model. This model will allow electric utilities to focus on make-ready infrastructure and distribution system upgrades needed to prepare charging sites for DCFC stations while unregulated businesses that compete on price and quality of service invest their private capital to own and operate publicly available DCFC stations. This will facilitate private investment and increase consumer options in Vermont's growing EV charging market.

Thank you for your consideration of CAP's comments. As the Commission prepares the report for the General Assembly, CAP is prepared to be a resource and welcomes all future opportunities to participate in this process.

Sincerely,

/s/ Jay Smith

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[10] Christine Condon, Maryland utilities will stop installing new EV chargers as program is reevulated, The Baltimore Sun, October 21, 2024. https://www.baltimoresun.com/2024/10/21/maryland-utilities-pause-ev-chargers-bge/

[11] Maryland Public Service Commission Order No. 91297, Order on Electric Vehicle Pilot Phase I Evaluation and Next Steps, MD PSC Case No. 9478, August 23, 2024.